

ER 9-8453

Alice
June

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MEMORANDUM FOR: Director of Central Intelligence

SUBJECT : Modification of MIC Policy to Exclude Military Intelligence

1. This memorandum contains a recommendation for action in paragraph 5.

2. On 27 February 1946 President Truman approved a statement by Secretary of State Byrnes of "Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments" and directed the Secretaries of State, War and Navy to implement this policy. This was the origin of what is now known as MIC Policy. The statement of policy which the President approved specifically included military intelligence as a category of military information. The most recent revision of MIC Policy, dated Nov. 15, 1955, lists military intelligence as one of thirteen categories of military information.

3. While it is possible that military intelligence might be excluded from MIC Policy by requesting the Secretaries of State and Defense to agree to such exclusion, it seems questionable whether the Secretary of State and Secretary of Defense would have the authority to make a fundamental change in Presidential policy by delegating a responsibility assigned them by the President to another agency of the

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government. In any event, if either Secretary of State or Secretary of Defense were opposed to such a step, he would almost certainly plead inability to take action in contravention of Presidential policy.

4. I believe the course of action most likely of expeditious success would be to request action by the NSC to the end that military intelligence be excluded from MIC Policy. Action would thus be effected at the Presidential level, as was the implementation of the original MIC Policy.

5. I recommend, therefore, that the attached letter be sent to the Executive Secretary of the NSC requesting action as stated therein. I believe you should obtain the concurrence of the IAC prior to transmitting this letter to the Executive Secretary of the NSC.


ROBERT AMORY, JR.
Deputy Director/Intelligence

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Concur:

Deputy Director/Coordination

Approved: *By De/*

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PDE/


Director of Central Intelligence

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MEMORANDUM FOR: Mr. James S. Lay
Executive Secretary
National Security Council

SUBJECT : Release of Military Intelligence to Foreign Governments

The revision of the NSCID's, now under way in line with the recommendation of the President's Board of Consultants, seems an appropriate time to raise a matter which has concerned me for some time.

NSCID 1 deals, among other things, with the authority to release intelligence to foreign governments. Such authority now derives from three basic instruments of existing statutes and Presidential policy, namely (a) The Presidential Directive of May 25, 1953 applicable to all foreign intelligence, (b) the U.S. National Disclosure Policy (MIC 206/29 (Revised)) applicable to military intelligence, and (c) the U.S. Atomic Energy Act of 1954 applicable to atomic energy intelligence.

The Presidential Directive of May 25, 1953 sets forth the principles of "need-to-know" and "net advantage to the interests of the U.S." as the basis for the release of classified information to foreign governments and holds the head of each department or agency responsible for insuring these conditions prior to release. This directive, in effect, affords to the IAC at the national intelligence level and to the head of each IAC member agency at the departmental intelligence level the final decision in the release of political, economic and scientific and technical (of a non-military nature and excluding AE intelligence) intelligence to foreign governments.

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The release of military intelligence is subject to the additional control of the U.S. National Disclosure Policy (MIC 206/29). This policy stems from the Presidential directive of February 27, 1946 on the control of the disclosure of classified military information which in turn, as the then Secretary of State stated, "merely provides for continuation of the policy followed by the War and Navy Departments since prior to the declaration of the unlimited national emergency." MIC 206/29 (Revised), in effect, affords to the State-Defense Military Information Control Committee, acting as the agent for the Secretaries of State and Defense, the final decision in the release of all classified military information of which military intelligence is only one of more than a dozen listed categories of military information. The other categories all pertain to military information on the U.S. and U.S. activities.

Thus, under existing Presidential policy, although the IAC, as the highest intelligence body in the government, may decide to release a national estimate containing military intelligence to a foreign government, final authority for the release of the military intelligence therein and, in effect, in many cases for the release of the estimate as a whole, is vested in a body whose primary responsibility, namely the control of military information pertaining to the U.S. forces and defenses, is non-intelligence in character. The situation is further complicated by the diverse interpretation of just what comprises military intelligence, a fact which has frequently given rise to confusion concerning which authority should prevail in determining release.

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Another consideration bearing on the problem is the fact that the military representatives on the SD-MIC Committee are departmentally subordinate to the military members of the IAC. While it might be maintained that such a relationship contributes towards a uniformity of viewpoint between the military members of the IAC and of the SD-MIC Committee, nevertheless it points up the duplicatory nature of the SD-MIC Committee role in the release of military intelligence which unnecessarily complicates existing procedures for determining the releasability of military intelligence as a part of national and inter-departmental intelligence.

Since the exchange of national intelligence with foreign governments is a vital process in the utilization and acquisition of intelligence, in furtherance of national security, and since virtually all national intelligence incorporates military intelligence to some degree, I believe it is essential that final authority under the President for determining the release of national intelligence, including military intelligence, be vested in the Director of Central Intelligence with the concurrence of the IAC. Such an action would be consistent with the provisions of section 102 (d) of the National Security Act of 1947, as amended, and would eliminate the dual authority which now exists for determining the releasability to foreign governments of much of the national intelligence now produced. At the same time the voice of the

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military services in controlling the release of military intelligence would be preserved, since each is represented on the IAC as well as on the SD-MIC Committee. In line with existing procedures in the IAC, no intelligence would be released to a foreign government over the objection of a military member of the IAC without referring the matter to the Secretary of Defense or to the NSC.

I recommend, therefore, that the NSC take action to the end that the release of military intelligence to foreign governments will be excluded from the jurisdiction of the State-Defense MIC Committee and that final authority under the President for determining the release of military intelligence included in national intelligence or interdepartmental intelligence will be vested in the DCI with the concurrence of the IAC, and that the release of military intelligence at the departmental level will be controlled by the producing or contributing departments and agencies under the overall release policy established by the Presidential Directive of 25 May 1953 (draft memorandum attached).

I recognize that under the provisions of The Atomic Energy Act of 1954, final authority for the release of AE intelligence, in effect, rests with the AEC, despite the provisions of section 142 (c) thereof. I believe it would be in the interest of national security to give the DCI final authority to release AE intelligence included in national intelligence along with the other categories of intelligence. In view of probable early action by Congress to revise the Atomic Energy Act of 1954, however, I believe outcome of such action should be awaited prior

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to making any recommendation with regard to this specialized field.

The foregoing has the concurrence of the IAC.

ALLEN W. DULLES
Director of Central Intelligence

Attachment

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MEMORANDUM FOR: Secretary of State
Secretary of Defense
Director of Central Intelligence

Pursuant to the action of the National Security Council of
_____, BASIC POLICY GOVERNING THE DISCLOSURE OF CLASSIFIED
MILITARY INFORMATION TO FOREIGN GOVERNMENTS, as approved by the President on 27 February 1946 and presently implemented by NIC 206/29 (Revised), dated November 15, 1955, shall be modified to exclude control of the release of military intelligence on foreign countries to foreign governments. Final authority under the President for determining the release of military intelligence included in national intelligence or interdepartmental intelligence shall be vested in the Director of Central Intelligence, with the concurrence of the Intelligence Advisory Committee. The release of military intelligence at the departmental level will be controlled by the producing or contributing departments and agencies under the overall release policy established by the Presidential Directive of 25 May 1953.

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Another consideration bearing on the problem is the fact that the military representatives on the SD-IC Committee are departmentally subordinated to the military members of the IAC. While it might be maintained that such a relationship contributes towards a uniformity of viewpoint between the military members of the IAC and of the SD-IC Committee, nevertheless it points up the duplicatory nature of the SD-IC Committee role in the release of military intelligence which unnecessarily complicates existing procedures for determining the releasability of military intelligence as a part of national and inter-departmental intelligence.

Since the exchange of national intelligence with foreign governments is a vital process in the utilization and acquisition of intelligence, in furtherance of national security, and since virtually all national intelligence incorporates military intelligence to some degree, I believe it is essential that final authority under the President for determining the release of national intelligence, including military intelligence, be vested in the Director of Central Intelligence with the concurrence of the IAC. Such an action would be consistent with the provisions of section 102 (d) of the National Security Act of 1947, as amended, and would eliminate the dual authority which now exists for determining the releasability to foreign governments of much of the national intelligence now produced. At the same time the voice of the

military services in controlling the release of military intelligence would be preserved, since each is represented on the IAC as well as on the SD-SEC Committee. In line with existing procedures in the IAC, no intelligence would be released to a foreign government over the objection of a military member of the IAC without referring the matter to the Secretary of Defense or to the SEC.

I recommend, therefore, that the SEC take action to the end that the release of military intelligence to foreign governments will be excluded from the jurisdiction of the State-Defense SEC Committee and that final authority under the President for determining the release of military intelligence included in national intelligence or interdepartmental intelligence will be vested in the DCI with the concurrence of the IAC, and that the release of military intelligence at the departmental level will be controlled by the producing or contributing departments and agencies under the overall release policy established by the Presidential Directive of 25 May 1953 (draft memorandum attached).

I recognize that under the provisions of The Atomic Energy Act of 1954, final authority for the release of AE intelligence, in effect, rests with the AEC, despite the provisions of section 142 (c) thereof. I believe it would be in the interest of national security to give the DCI final authority to release AE intelligence included in national intelligence along with the other categories of intelligence. In view of probable early action by Congress to revise the Atomic Energy Act of 1954, however, I believe outcome of such action should be awaited prior

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to making any recommendation with regard to this specialized field.

The foregoing has the concurrence of the IAC.

ALLEN M. DULLES
Director of Central Intelligence

Attachment

MEMORANDUM FOR: The Director

RE SC/MIC.

I have examined this paper carefully.

I believe changes have been made and it is
now O.K. for signature.



LKT

29 Nov 57

(DATE)

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FORM NO. 101 REPLACES FORM 10-101
1 AUG 54 WHICH MAY BE USED.

(47)

MEMORANDUM FOR: Mr. Dulles

The two points you raised in connection with the attached proposed memorandum to the NSC have been amplified by the addition of a new paragraph -- the first on page 3 -- and the addition of two sentences at the end of the second paragraph on page 3-4.

RAJr.

20 November 1957
(DATE)

FORM NO. 101 REPLACES FORM 10-101
1 AUG 54 WHICH MAY BE USED.

(47)

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Dulles

DATE: 18 Nov 57

FROM : FMC

SUBJECT:

You said you might wish to discuss this in your Morning Meeting as you thought the following two points should be amplified in the proposed memo to the NSC.

✓ a. That the Military representatives on SDMICC are the same Military representatives who sit on the IAC and therefore their work is duplicatory. *ck 2 to extent true,*

b. You would never take the position of releasing military information or Atomic Energy information over the objection of the Military or AEC representatives on the IAC without first taking it up with the Secretary of Defense or the Chairman of the AEC, respectively, or referring it to the NSC. *This is the procedure under NSCID 1. Cross*

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MEMORANDUM FOR: MR. DULLES

If the proposal contained in the attached is approved, recommend that we so advise ☐
☐ CIA representative on MIC, in order that he may, as a matter of courtesy, tell the Members of this Committee that this paper will be considered by the IAC.

JSE

14 Nov 57

(DATE)

FORM NO. 101 REPLACES FORM 10-101
1 AUG 54 WHICH MAY BE USED.

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